

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: August 24, 2022

MARY MALONEY,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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UNPUBLISHED

No. 19-1713V

Special Master Dorsey

Damages Award; Proffer; Pneumococcal
Conjugate (“Pneumovax 13”) Vaccine;
Guillain-Barré Syndrome (“GBS”).

Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.

Colleen Clemons Hartley, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On November 4, 2019, Mary Maloney (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“Vaccine Act” or “the Program”), 42 U.S.C. § 300aa-10 *et seq.* (2012).² Petitioner alleged that she suffered Guillain-Barré Syndrome (“GBS”) as the result of a pneumococcal conjugate (“Pneumovax 13”) vaccination she received on July 7, 2017. Petition at Preamble (ECF No. 1). On March 17, 2022, the undersigned issued a ruling finding Petitioner entitled to compensation. Ruling on Entitlement dated Mar. 17, 2022 (ECF No. 64).

¹ Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2012). All citations in this Decision to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

On August 23, 2022, Respondent filed a Proffer on Award of Compensation (“Proffer”), attached hereto as Appendix A. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. Proffer at 2. Based on the record as a whole, the undersigned finds that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, the undersigned awards Petitioner:

(1) A lump sum payment of \$263,190.84 for all damages, including \$130,000.00 representative of pain and suffering, and \$133,190.84 representative of out-of-pocket medical and related expenses, in the form of a check made payable to Petitioner, Mary Maloney.

Proffer at 2. This amount represents all elements of compensation to which Petitioner is entitled under § 15(a).

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** herewith.³

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey

Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

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| MARY MALONEY, |) | |
| |) | |
| |) | |
| Petitioner, |) | No. 19-1713V ECF |
| |) | |
| v. |) | Special Master Dorsey |
| |) | |
| SECRETARY OF HEALTH |) | |
| AND HUMAN SERVICES, |) | |
| |) | |
| Respondent. |) | |
| |) | |

PROFFER ON AWARD OF COMPENSATION¹

I. Procedural History

On November 4, 2019, Mary Maloney (“petitioner”) filed a petition for compensation (“petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34, *as amended* (“the Act”). She alleged that, as a result of receiving the Prevnar-13 vaccine on July 7, 2017, she suffered from Guillain-Barre Syndrome (“GBS”). *See* Petition. On March 16, 2020, respondent filed his Vaccine Rule 4(c) report, denying that compensation was appropriate under the Act. ECF 16. On March 17, 2022, Special Master Dorsey issued a ruling on entitlement, finding that petitioner was entitled to compensation for a GBS injury following the subject Prevnar-13 vaccination. ECF 64.

II. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of **\$263,190.84**, for all damages, including \$130,000.00 representative of pain and

¹ This Proffer does not include attorneys’ fees and costs, which the parties intend to address after the Damages Decision is issued.

suffering, and \$133,190.84 representative of out-of-pocket medical and related expenses. This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

III. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment, as described below, and requests that the Special Master's decision and the Court's judgment award the following: A lump sum payment of **\$263,190.84** in the form of a check payable to petitioner.² Petitioner agrees.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

² Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

/s/Colleen C. Hartley

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Dated: August 23, 2022